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THE UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH

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STEPHANIE SUZANNE VANDUKER,

Movant,

v.

UNITED STATES OF AMERICA,

Respondent.

**MEMORANDUM DECISION AND  
ORDER VACATING ORDER OF  
DISMISSAL AND JUDGMENT  
AND  
REOPENING CASE**

Case No. 4:21-cv-00114-DN

District Judge David Nuffer

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Movant Stephanie Suzanne Vanduker filed a motion challenging her conviction and sentence under [28 U.S.C. § 2255](#) (“§ 2255 Motion”).<sup>1</sup> On January 26, 2022, a Memorandum Decision and Order<sup>2</sup> and a Judgment<sup>3</sup> entered denying and dismissing the § 2255 Motion as untimely under § 2255’s one-year limitation period. However, the Memorandum Decision and Order and Judgment contain an error in calculating the date on which the one-year limitation period began to run. The Memorandum Decision and Order calculated the date Ms. Vanduker’s judgment of conviction became final as October 12, 2020.<sup>4</sup> This was based on Supreme Court Rule 13’s 90-day deadline for filing a petition for a writ of certiorari from the date of entry of the judgment or order sought to be reviewed.<sup>5</sup>

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<sup>1</sup> Motion Under [28 U.S.C. § 2255](#) to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody (“§ 2255 Motion”), [docket no. 1](#), filed Nov. 22, 2021.

<sup>2</sup> Memorandum Decision and Order of Dismissal (“Memorandum Decision and Order”), [docket no. 7](#), filed Jan. 26, 2022.

<sup>3</sup> Judgment in a Civil Case (“Judgment”), [docket no. 8](#), filed Jan. 26, 2022.

<sup>4</sup> Memorandum Decision and Order at 4.

<sup>5</sup> S.Ct.R. 13-1.

By order entered March 19, 2020, the Supreme Court temporarily extended the 90-day deadline for filing a petition for a writ of certiorari to 150 days.<sup>6</sup> This temporary extension applies to Ms. Vanduker's § 2255 Motion and extended the date on which her judgment of conviction became final to December 11, 2020.

Mr. Vanduker filed her § 2255 Motion on November 22, 2021, within one year after the date on which her judgment of conviction became final. Therefore, the § 2255 Motion is not untimely and Ms. Vanduker's claim is not barred by § 2255's one-year limitations period. The Memorandum Decision and Judgment must be VACATED to correct this error.

### **ORDER**

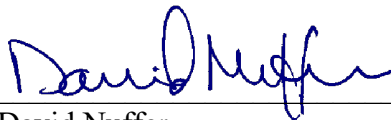
IT IS HEREBY ORDERED that the Memorandum Decision and Order<sup>7</sup> and Judgment<sup>8</sup> denying and dismissing Ms. Vanduker's § 2255 Motion are VACATED.

IT IS FURTHER ORDERED that this action is REOPENED.

IT IS FURTHER ORDERED that Ms. Vanduker's § 2255 Motion will be reviewed under the Rules Governing Section 2255 Proceedings for the United States District Courts to determine if a response from the government is necessary.

Signed January 27, 2022.

BY THE COURT

A handwritten signature in blue ink, appearing to read "David Nuffer", is written over a horizontal line.

David Nuffer  
United States District Judge

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<sup>6</sup> Order List: 589 U.S. (Mar. 19, 2020).

<sup>7</sup> Docket no. 7, filed Jan. 26, 2022.

<sup>8</sup> Docket no. 8, filed Jan. 26, 2022.